

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY,

Defendant.

CIVIL ACTION NO. 04-12258-JLT

I, Gailyc C. Sonia, do on oath depose and say:

1. I am over the age of majority, of sound mind, and I give this testimony based on my personal knowledge of the facts stated herein.

2. I am employed as in-house counsel for Plaintiff Hearts On Fire Company, LLC (hereinafter "HOF") and previously represented HOF as outside counsel in connection with trademark matters.

3. At this preliminary stage of the proceedings in this matter, HOF has identified at least nine witnesses to testify regarding the claims contained in its pleadings against EightStar Diamond Company ("EightStar") and GRS Jewelers, Inc. d/b/a Grimball & Stokes Jewelers a/k/a Grimball Jewelers ("Grimball").<sup>1</sup> All but one of these witnesses resides in Massachusetts and are employed by HOF at its headquarters at 99 Summer Street, Boston, Massachusetts. The other witness is employed by HOF but resides in Burnett, Texas.

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<sup>1</sup> On December 22, 2004, HOF filed a motion to Amend its Complaint in order to add Grimball as a defendant in this action. That motion is pending before the Court.

4. First, HOF expects to call Glenn Rothman, its Chief Executive Officer, who is likely to testify concerning the first use of HOF's marks and various aspects of the extent and scope of marketing and advertising for HOF's marks, the prosecution and registration of HOF's marks, HOF's use of the marks, the nature of HOF's goods, HOF's enforcement against others' attempts to plagiarize the marks, the scope and extent of sales of HOF's goods, the channels of trade in which HOF's goods are distributed, characteristics of consumers for the parties' goods, and the likelihood of confusion between HOF's products and EightStar's products.

5. HOF also expects to call Susan Rothman, the company's President. Ms. Rothman is likely to testify concerning various aspects of the extent and scope of marketing and advertising for HOF's marks, the nature of HOF's goods, the channels of trade in which HOF's goods are distributed, characteristics of consumers for the parties' goods, and the likelihood of confusion between HOF's products and EightStar's products.

6. Next, HOF expects to call Peter Smith, HOF's Executive Vice-President for Sales & Marketing to testify concerning various aspects of the extent and scope of marketing and advertising for HOF's marks, HOF's use of the marks, the channels of trade in which HOF's goods are distributed, the characteristics of consumers for the parties' goods, and the likelihood of confusion between HOF's products and EightStar's products.

7. HOF also expects to call William T. Anderson, its Chief Financial Officer, to testify concerning various aspects of the extent and scope of marketing and advertising for HOF's marks, the scope and extent of sales of HOF's goods, and HOF's enforcement against others' attempts to plagiarize the marks

8. Further, HOF expects to call Henry M. Chidgey, its former President & Chief Operating Officer, and currently Senior Advisor to HOF, to testify concerning the scope and

extent of sales of HOF's goods under the marks and various aspects of the extent and scope of marketing and advertising for HOF's marks, HOF's enforcement against others' attempts to plagiarize the marks, the channels of trade in which HOF's goods are distributed, and the likelihood of confusion between HOF's products and EightStar's products. Mr. Chidgey resides in Burnett, Texas.

9. HOF also expects to call David Knies, its Vice-President for Marketing, to testify concerning secondary meaning that HOF's marks have acquired and various aspects of the extent and scope of marketing and advertising for HOF's marks, HOF's use of the marks, the likelihood of confusion between HOF's products and EightStar's products.

10. HOF also expects to call Mark Israel, HOF's Chief Operating Officer, to testify concerning characteristics of consumers' for the parties goods and various aspects of the extent and scope of marketing and advertising of HOF's marks and the channels of trade in which HOF's goods are distributed.

11. HOF also expects to call Jason Sylvanowicz, a Graphic Designer, who is likely to testify concerning various aspects of the extent and scope of marketing and advertising for HOF's marks and HOF's use of the marks.

12. Finally, HOF expects to call Rhonda Edelman, its Director of Training, to testify in this matter concerning various aspects of the nature of HOF's goods, the extent and scope of marketing and advertising for HOF's marks, HOF's use of the marks, and the secondary meaning that has been acquired by HOF's marks.

13. HOF has organized and segregated a large quantity of documents which are relevant to the claims in this matter, and which are located at its headquarters in Boston, Massachusetts. While this matter is still in its preliminary stage, and discovery has not been

commenced, to this date HOF has gathered relevant documents that consume numerous “bankers” size boxes.

14. HOF’s documents which it has gathered at this stage include documents in the following categories:

- a. Documents concerning prosecution and procedures to register HOF’s marks.
- b. Documents concerning the nature, extent and scope of advertising and promotion of HOF’s marks.
- c. Documents concerning the public’s recognition of HOF’s marks.
- d. Documents concerning the extent and scope of use of the marks by HOF.
- e. Documents concerning attempts to plagiarize the marks and HOF’s enforcement of the marks.
- f. Documents concerning EightStar’s goods and retailers, the similarity of EightStar’s goods, and its use of HOF’s marks.
- g. Documents concerning the nature of HOF’s goods.

15. In connection with this case, I have visited EightStar’s web site located at [www.eightstar.com](http://www.eightstar.com). On this web site I found a number of interactive features. First, from EightStar’s home page located at [www.eightstar.com](http://www.eightstar.com), a copy of which is attached herein as Exhibit A, I clicked on the link with a large diamond image below it, entitled “How To Buy an EightStar.” From that link, I was directed to a page with the title “How To Buy an EightStar” displayed prominently at the top with several links to choose from on the page. This page is located at [www.eightstar.com/HowTo/index.htm](http://www.eightstar.com/HowTo/index.htm), a true and accurate copy of which is attached herein as Exhibit B.

16. At the bottom of the page titled “How to Buy an EightStar,” I was presented with two links. The first link was captioned “Contact us to learn more about how to buy an EightStar

Diamond by clicking here.” Upon clicking this link I was directed to a page titled “Sending an Inquiry to the EightStar Company,” and located at [www.eightstar.com/HowTo/CustomerForm.htm](http://www.eightstar.com/HowTo/CustomerForm.htm), a true and accurate copy of which is attached herein as Exhibit C. Among other things, this is a page with an automated form for sending a message to EightStar that is designed to collect information that is more extensive than might otherwise be received in an ordinary electronic mail message. Specifically, it has ten boxes for inputting various categories of personal identifying information. Additionally, it has two boxes designed to collect online referral, advertising, and marketing information. Further, the page contains a large box entitled “Comments” that enables the submission of a lengthy inquiry or message to EightStar. For its part, EightStar represents on the page that it will “respond to each request individually and will direct you and your information to the nearest EightStar jeweler.” In addition, EightStar explains on the page that consumers should “[p]lease note that custom cutting can take up to eight weeks.”

17. I returned to the page titled “How to Buy an EightStar” and was presented with the second link at the bottom of the page, captioned “If you are a retail jeweler interested in information about becoming an EightStar dealer, click here.” Upon clicking this link I was directed to a page titled “Become an EightStar Family Member”, which is located at [www.eightstar.com/HowTo/FamilyMember.htm](http://www.eightstar.com/HowTo/FamilyMember.htm), a true and accurate copy of which is attached herein as Exhibit D. This page contains a similar automated on-line form similar to that described above in Paragraph 16, with a number of boxes allowing retail jewelers to send detailed information concerning their business to EightStar.

18. I returned again to the page titled “How to Buy an EightStar” and was presented with three links down the left side of the page. The first link on the left side was captioned,

“EightStar Community.” When I clicked this link I was directed to a page located at [www.eightstar.com/forum](http://www.eightstar.com/forum). Although this page was not currently operable, it appeared from the “EightStar Community” name and the use of the word “forum” in the address for this page that this page was intended to be an online forum for the exchange of information, such as an online chat room.

19. I returned to the page titled “How to Buy an EightStar” and clicked on the second link on the left hand side, captioned “Frequently Asked Questions,” which directed me to a page titled “The EightStar Diamond Facts Area” and located at [www.eightstar.com/cgi-bin/faqwiz/faq.pl](http://www.eightstar.com/cgi-bin/faqwiz/faq.pl). A true and accurate copy of that page is attached herein as Exhibit E. This page provides consumers a search function whereby one can search the EightStar web site for specific information.

20. I returned again to the page titled “How to Buy an EightStar” and clicked on the bottom of the three links on the left side of the page. This link was captioned “Today’s Revolution in Diamond Cutting” and directed me to a page located at [www.eightstar.com/docs/TodaysRevolutionInDiamondCutting.htm](http://www.eightstar.com/docs/TodaysRevolutionInDiamondCutting.htm), a true and accurate copy of which is attached herein as Exhibit F. This page contains the title “Today’s Revolution in Diamond Cutting” displayed across the top and provides the consumer with the opportunity to download software to their computer from Adobe Systems Inc., allowing the viewer to open and review “pdf” formatted documents. Using the Adobe Systems Inc. software, my computer obtained a promotional article from EightStar that is in the “pdf” format, a copy of which is attached herein as Exhibit G.

21. After navigating through the various choices on EightStar’s “How to Buy an Eightstar” page, I returned to its home web page located at [www.eightstar.com](http://www.eightstar.com) and clicked on

the link on the bottom left hand side of the page to “View Video,” which directed me to a page located at [www.eightstar.com/american3.htm](http://www.eightstar.com/american3.htm), a true and accurate copy of which is attached herein as Exhibit H. This page allows consumers to download special media software from either Microsoft Corporation or Real Networks Corporation, enabling that consumer to view a video directly from the Eightstar web site. The video captures a portion of a live television news segment describing “the American tour” of the “American Star Diamond,” a 13.42 ct. diamond produced by EightStar.

22. The EightStar home page at [www.eightstar.com](http://www.eightstar.com) also contains various other links to pages containing information ranging from tips for buying diamonds to diamond cutting techniques.

23. Prior to HOF filing, this lawsuit I learned that Grimball was making use of HOF’s marks on its web site, and visited that page located at [www.grimballjewelers.com](http://www.grimballjewelers.com), a true and accurate copy of which is attached herein as Exhibit I. That page has contained a link entitled “EightStar Diamonds” with the following phrase displayed below that link: “The most perfectly cut diamonds in the world. Only 2000 are cut each year.” When I clicked on the link entitled “EightStar Diamonds” I was immediately directed to EightStar’s website.

24. Grimball’s web site also has contained a link entitled “Links.” When I chose that link, I was directed to a page on Grimball’s web site located at [www.grimballjewelers.com/links.html](http://www.grimballjewelers.com/links.html), a true and accurate copy of which is attached as Exhibit J. That page contained the EightStar company logo, a link to EightStar’s home page, and the following phrase: “The most perfectly cut diamonds in the world. Only 2000 are cut each year.” When I clicked on the link to EightStar I was immediately directed to EightStar’s home page.

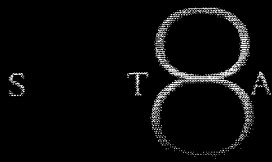
25. Also in connection with this case I visited Grimball's home page at [www.grimballjewelers.com](http://www.grimballjewelers.com), and have clicked on the link at the top of that page to "[grimballjewelers@bellsouth.net](mailto:grimballjewelers@bellsouth.net)". Upon doing so, my electronic mail function was activated with Grimball's electronic mail address automatically included in that function. This tool allowed me to send an email message directly to Grimball.

Signed under the penalties of perjury this 11th day of January, 2005,

/s/ gailyc c. sonia  
Gailyc C. Sonia, Esq.



EXHIBIT A



Beauty

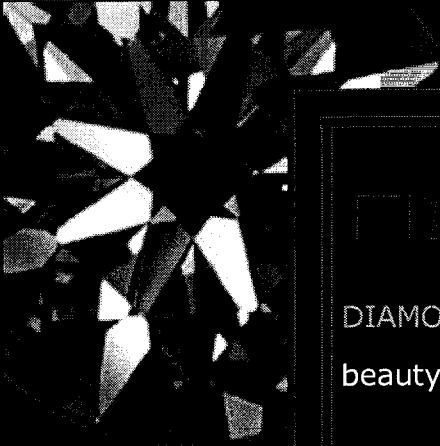
Perfect  
Light

The EightStar

About

News

Home



## THE QUEST FOR LIGHT

DIAMONDS are the supreme gift of love. Their radiant beauty matches our own radiant emotion.

A diamond's beauty comes from the light it returns - called brilliance and fire. These qualities live in every stone. Yet they can only be released through the cut.

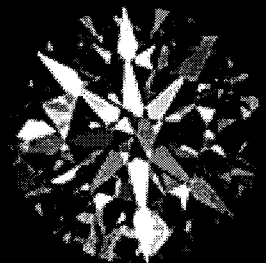
For centuries, cutters sought to unlock the secret of perfect light return. But their efforts remained unsuccessful until their art came together with science.

Only then did this Quest for Light reach its culmination: the EightStar Diamond.

And the story begins with beauty...

Next: [Beauty](#)

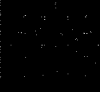
**How to  
Buy an  
EightStar**



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**MUST  
READ  
ARTICLE**



**FREQUENTLY  
ASKED  
QUESTIONS**



**TODAY'S  
REVOLUTION  
IN DIAMOND  
CUTTING**

**American Star  
Diamond**

13.42 ct. D/IF EightStar

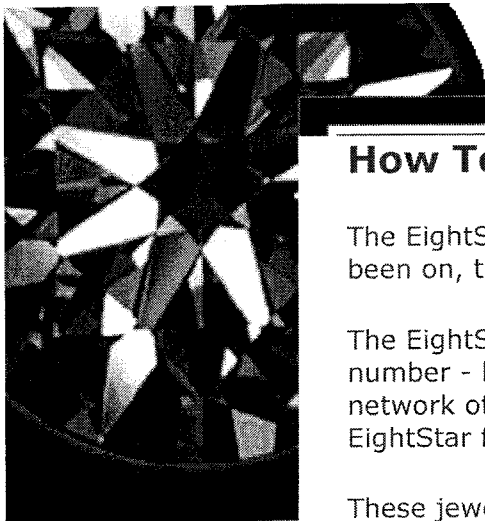
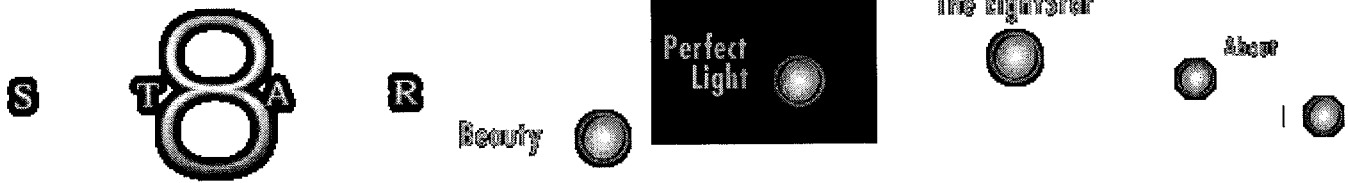


[CLICK HERE](#)



**View Video**

**EXHIBIT B**



## How To Buy An EightStar

The EightStar Diamond represents the culmination of a quest you've been on, too: a quest to find the ultimate in diamond beauty.

The EightStar Diamond is a rare and exclusive jewel. A limited number - less than 2,000 - are cut each year. And only a select network of independent jewelers across the country - called EightStar family members - offer the EightStar.

These jewelers have been chosen to represent our diamonds because of their reputation for quality and knowledge and, most important, for their commitment to customer service. Each member of the EightStar family ensures that their level of experience and knowledge surpasses that of any other jeweler in the industry by attending annual educational conferences at the EightStar facilities.

The beauty of an EightStar never changes, but our inventory does. Knowing that you may desire a specific rarity of color or clarity in your stone, EightStar can custom cut your special diamond.

EIGHTSTAR  
COMMUNITY

FREQUENTLY  
ASKED  
QUESTIONS

TODAY'S  
REVOLUTION  
IN DIAMOND  
CUTTING



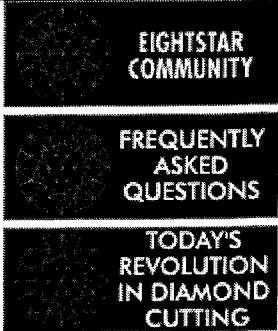
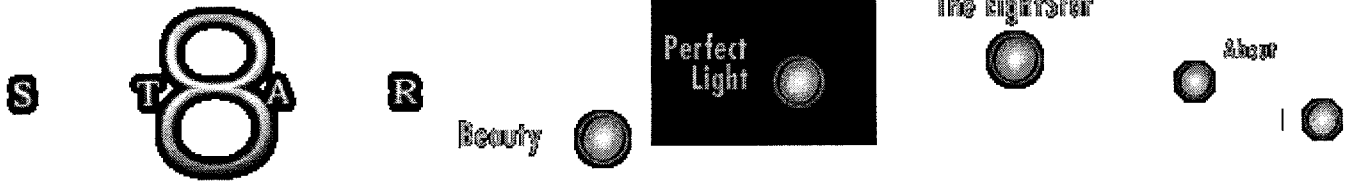
Contact us to learn more about buying  
an EightStar Diamond by clicking here



If you are a retail jeweler interested in information  
about becoming an EightStar Dealer, click here

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EXHIBIT C



## Sending an Inquiry to the EightStar Company

Your EightStar jeweler will answer any questions you have about custom cutting. Please note that custom cutting can take up to eight weeks.

Please fill out the information form below and send it to us. We respond to each request individually and will direct you and your information to the nearest EightStar jeweler.

We will also respond to any questions or comments you might have. We are delighted to share the wonders of the EightStar with you.

Please note, all fields marked with \* are required.

*First Name <input type="text"/>	*Last Name <input type="text"/>
Address 1 <input type="text"/>	Address 2 <input type="text"/>
*City <input type="text"/>	*State/Province <input type="text"/>
*Zip/Postal Code <input type="text"/>	Country <input type="text"/>
*Phone Number <input type="text"/>	*Email Address <input type="text"/>

\*Where was the **first** place you learned about the Eightstar Diamond?

If you found this site from **another web site**, please note the name or address.

Comments

Our site is busy it may take a few seconds to process.

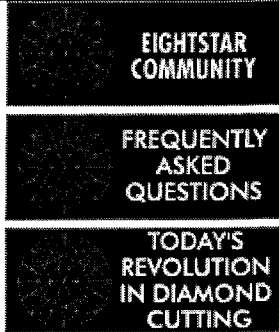
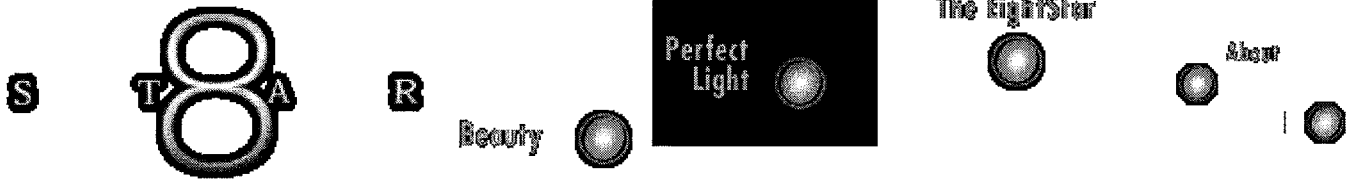
submit

reset

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EXHIBIT D





## Become An EightStar Family Member

We are always looking for brick-and-mortar jewelers that have a reputation for quality, knowledge and, most important, a commitment to customer service.

As an EightStar dealer we must ensure that your level of experience and knowledge surpasses that of any other jeweler in the industry. You must visit the EightStar offices and the cutting studio immediately for training and you are **required** to attend annual EightStar conferences.

EightStar is about building relationships and loving what you do. Our jewelers are our family. That's why we are dedicated to finding outstanding jewelers and empowering them to unlock their talent and creativity with a product they feel passionate about.

We encourage you to contact us and see what opportunities await you in your territory.

Please note, all fields marked with \* are required.

\* Company Name

\* First Name

\* Last Name

\* Title

\* Address 1

Address 2

\* City

\* State/Province

\* Zip/Postal Code

Country

\*Phone Number

\*Email Address

\*Where was the **first** place you learned about the Eightstar Diamond?

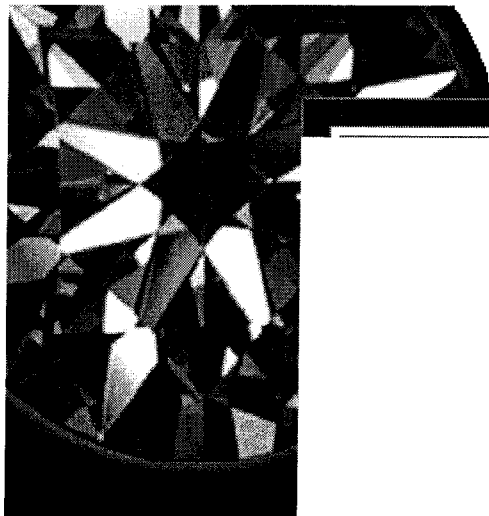
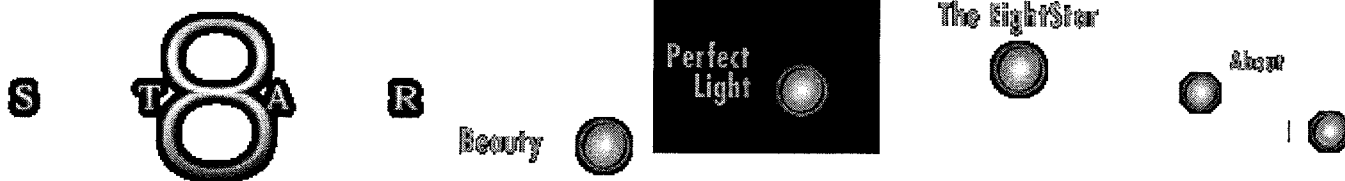
If you found this site from **another web site**, please note the name or address.

Comments

Our site is busy it may take a few seconds to process.

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EXHIBIT E



### The EightStar Diamond Facts Area

**Search for keywords**  
(Leave blank to list all)

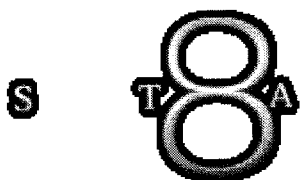
spaces

(separated by

Search in ☒ questions ☐ answers

Search

EXHIBIT F



R

Beauty



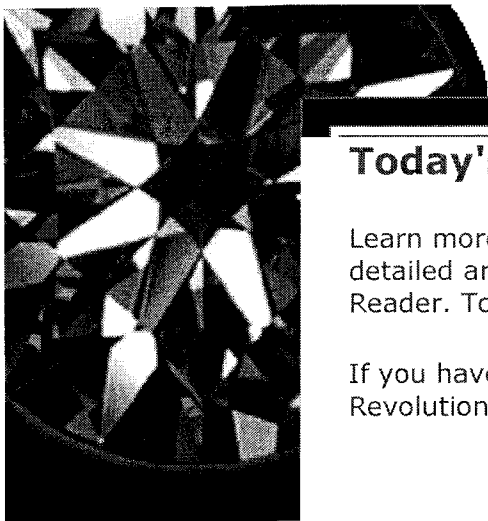
Perfect  
Light



The EightStar



About



## Today's Revolution in Diamond Cutting

Learn more about EightStar's Diamond cutting process in this detailed article. To read this document, you will need Acrobat Reader. To download the Acrobat Reader installation, [click here](#).

If you have Acrobat Reader installed, [click here](#) to read "Today's Revolution in Diamond Cutting".



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EXHIBIT G

## TODAY'S REVOLUTION IN DIAMOND CUTTING

©2002, Richard von Sternberg

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### RUDIMENTARY BEGINNINGS

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In the very beginning of diamond history, in India, you could not wear a diamond unless you were considered to be a descendant of a God. You had to be a ruler or a high priest. This connection between diamonds and deities endured well into the last millennium. In medieval times the churches forbid diamond cutting for fear that looking into a diamond would corrupt the soul.

Around 1500 when artisans began to attempt to unleash the raw beauty engendered by diamonds a quest began to maximize the fire and brilliance they could see latent within the crystals they found.

The fact that during the early history of diamonds only royalty wore them gave them a mystique and a monetary value that remains inherent in them to this day. There is so much concentrated wealth in a diamond crystal, that a kind of dichotomy has formed in the philosophy of diamond polishing all over the world: whether to maximize weight from the crystal to save money that would be lost if more crystal were shed or to maximize beauty and forego the retention of crystal material.

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### THE ADVENT OF THE "IDEAL" CUT

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The first noble spokesman for the latter position, that of sacrificing weight for beauty, was Marcel Tolkowsky who, in writing his master's thesis in London in 1919 – named Diamond Design – became an apologist of the beauty first order of diamonds. Tolkowsky extolled their unparalleled ability to refract light to give off fire and to reflect light back to the observer in the creation of brilliance. His work consisted of a collection of mathematical formulae based on what is known as the

"critical angle" of crystallized carbon, that angle to which facets must be cut in order to keep light inside a diamond after it enters its crown. What is desired is that light entering the crown of a diamond exit the crown also, not "leaking" through the pavilion and, thereby, making the diamond appear brilliant to the eye.

Tolkowsky took a very hard-line position about the nonsense of retaining weight from the crystal if, during the process of so doing, the consumer paled as the loser of the beauty any given diamond could possess. Tolkowsky made such an impact on the diamond industry that angles and proportions he purported to be critical to a diamond's beauty came to be called the proportions of an "ideal cut" diamond.

Since Tolkowsky could cut diamonds and was a master of physics and mathematics, his credentials lent him the ultimate credibility. Tolkowsky was a cousin of the famous Lazare Kaplan. Both Kaplan and Tolkowsky were Belgian gentlemen and one would think that the story of the ideal cut diamond would be a purely European story, not American. However, Mr. Kaplan had a group of close friends he spent most of his time with in Belgium who were all killed by a German bombing raid in his country during the First World War. Kaplan was in New York at the time doing business. Devastated by the loss of his close friends, he decided to move his business affairs to America. That is how the famous Lazare Kaplan Diamond Company came to be located in New York.

During most of the 20<sup>th</sup> century Tolkowsky's influence remained clear and strong. It was always ASSUMED that he was right and that any diamond which could be shown to have proportions approximating those of Tolkowsky was cut to ideal proportions and was as good as a diamond could be assuming it had ideal symmetry and polish as well. Tolkowsky was able to use his cousin's resources to experiment with diamonds and, later, his cousin structured his factory production to create only Tolkowsky-proportion diamonds and in the mid 1950's developed a brand of diamond known as the Kaplan® diamond. The Kaplan® diamond has, therefore, a blood connection to the first most important movement in the history of diamond polishing.



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## JAPANESE ENTREPRENEUR ECLIPSES TOLKOWSKY

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Mr. Taruhiro Tamura



In 1977 a very wealthy and influential Japanese man – outside the diamond industry -- was approached by a diamond dealer who attempted to sell him an “ideal cut” diamond. When asked what made his diamond “ideal”, the subject of science entered the conversation (which surprised the Japanese business magnate) and the

topic switched to Tolkowski. The Japanese merchant prince had never heard of ideal cutting or Tolkowski.

The diamond dealer attempted to further his opportunity by showing an actual diamond and, as a strategy for selling, augmented his discourse by producing a chart showing proportions for ideal cutting. The Japanese tycoon, well-versed in selling strategies since he had just retired from 20 years of Sony product distribution, asked the diamond peddler to demonstrate what it was that was special about the diamond without a chart, by using a device that proved the point of his attempted sale: that ideal cutting yielded a more brilliant diamond.

“To my knowledge there is no such device,” responded the diamond dealer.

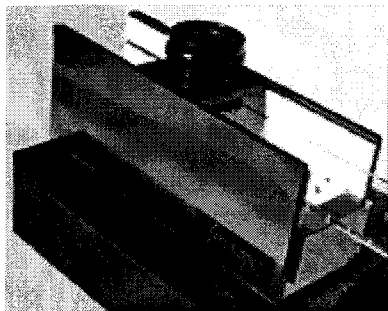
“Diamonds leave me cold,” responded the Japanese magnate.

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### THE FIRESCOPE®

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In 1984 the dealer returned to the office of the magnate, now a consultant, after having spent 7 years with inventors, gemologists, specialists in optics, physicists and plastics manufacturers. He had invented a device he



named the FireScope®. The same magnate who was left cold by diamonds was suddenly warmed and charmed by the new device. His response to it was:

“With a shock it suddenly occurred to me that what we had here was a device that could clearly and unmistakably show how good or bad a diamond’s cut was. All that was needed was the human eye. All you had to do was look for yourself.”

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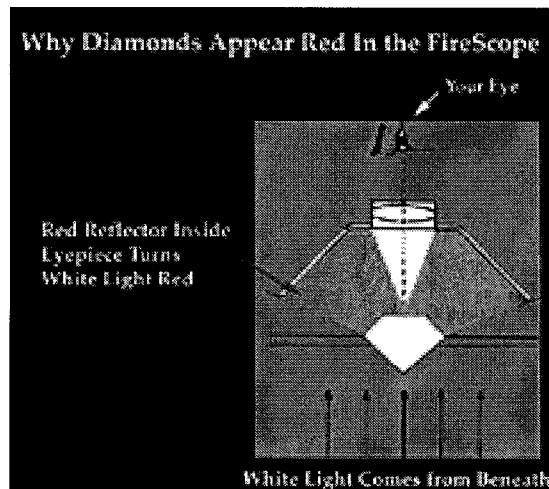
### HOW THE FIRESCOPE® WORKS

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The FireScope® has a light source of white light that sits beneath a tray made of clear plastic which has holes of graduating sizes drilled into it that hold diamonds of varying sizes. The tray can slide back and forth beneath an eyepiece which has built into it a red reflector which receives white light, turns it red and then reflects that red light into the crown of the diamond – above the girdle of the diamond, in other words.

As you look into the eyepiece you see a three possible phenomena:

1. White
2. A series of colors ranging from pink to red
3. Black



Where you see white, light is coming through the bottom of the diamond, entering from its pavilion, in other words. Light that you see as absolutely white is, therefore,

leaking into and out of the diamond from an area where the diamond has been cut improperly.

Where you see red or pink, you are seeing light which is entering the crown of the diamond from angles of incidence ranging from 40 degrees to approximately 80 degrees relative to the table plane of the diamond.

Black, like red and pink, is evidence of reflected light in the diamond also known as brilliance. The black, however, is light that is being reflected from the diamond that entered from above 80 degrees and is reflecting the lens of the eyepiece of the FireScope®. The 8 main facets of the pavilion receive their light from nearly straight up above the diamond and the black color they turn, considering that the eyepiece sits directly above the diamond, is a form of proof of this.

When viewing any EightStar® diamond in a FireScope® one sees always the same thing.

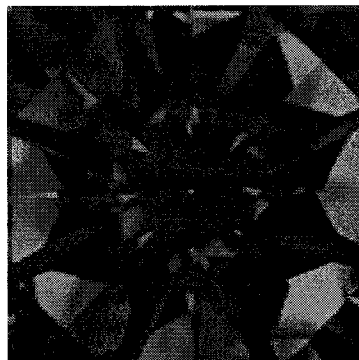
- A perfect balance of black arrows evenly shaped to EightStar® proportions conforming with our trade secret method of shaping for maximum brilliance and fire.
- An even distribution of pink and red covering all of the image with white showing only in the culet area.
- Amazingly perfect red equilateral triangular reflections of the star facets of the diamond found around the outside of the table reflection.

This picture shows pink, red and black, no leakage and perfect reflections of the star facets of this EightStar® diamond.



What is more commonly seen in diamonds, even the following example, a 14.89 carat D/IF diamond with a certificate from the GIA listing Excellent symmetry, is lack of organization in the central part of the reflection

pattern and a great deal of light leakage. Example follows:




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### **“IDEAL CUT” DIAMONDS TURNED OUT NOT TO BE IDEAL AT ALL**

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Mr. Taruhiro Tamura was so changed by his experience with the FireScope® that he left his former world of business behind, switching to the world of diamonds. Several attempts to aggregate inventories of diamonds the FireScope® would show to be perfect stones failed. The so-called “ideal” cut diamond proved to be far from ideal and Tamura was the first person in the world to see it, as he was the first person to peer into the future of diamond analysis by evolving into the dimension of optical symmetry.

Up to the moment of Tamura's discoveries the diamond industry and diamond grading institutions were based entirely on measurements of the surface of diamonds as meters of quality analysis. “Ideal” diamonds were considered those that most closely resembled a mathematical model from the early 20<sup>th</sup> century work of Tolkowsky. Tamura's first observations about this were his words about what was referred to then as the “symmetry” of a diamond.

“The ‘symmetry’ grading on a diamond certificate takes into account only that -- the quality of the points of contact between the fifty-eight facets of the diamond. What is more important, which this method of evaluation completely ignores, is overall three-dimensional symmetry. For years, cutting firms and gemological laboratories have taken this for granted, a case of not seeing the forest for the trees, if ever there was one.”

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## **BIRTH OF THE EIGHTSTAR® DIAMOND: 1984**

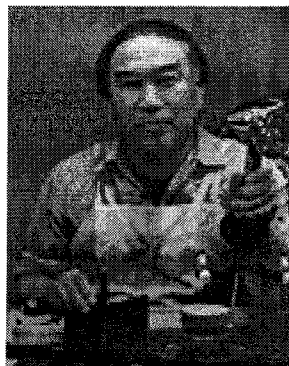
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All attempts to encounter a diamond that displayed perfect three-dimensional symmetry were fruitless. Tamura opened a diamond cutting factory in Tokyo the same year and, after millions of dollars in expense and more than one year of time spent in no other pursuit, created the EightStar® diamond, the breakthrough diamond that has now changed the world.

When Tamura took his diamond to the gemological laboratories in Tokyo it was clear upon first observation that it was superior to all diamonds that preceded it. It was immediately declared to be the new world standard for round brilliants. Thus 1984 became a banner year for diamonds because it marked the beginning of today's diamond cutting revolution and fits into the history of diamonds with impact not unlike that of Tolkowsky's 1919 contribution. In fact, Tamura took diamond analysis to a much higher level than Tolkowsky even dreamed of doing by using the FireScope® to determine how well a diamond was cut.

Tamura's success was immediate. The demand for EightStar® exceeded the supply by thousands. Patient Japanese people waited, some for as long as five years, to get theirs. I opened a factory in Northern California in 1990 to accommodate Tamura's backlog. We opened as an independent company with no fiscal connection to the Japanese EightStar operation and trademarked the diamond here.

The first few years were spent learning the new methods. We trained various cutters under the tutelage of the cutter who invented the process in Japan, Mr. Kiyoshi Higuchi. My wife, Alison von Sternberg, became the first female master cutter of these diamonds in the Western world. In fact, she is considered to be the most important female diamond cutter in the Western World. The EightStar® diamond became so important that it began to be copied in Japan.



Mr. Kiyoshi Higuchi

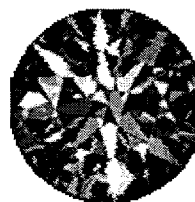
Four years after its inception, the first copy of EightStar® was the Hearts-and-Arrows® diamond. There are now hundreds of companies making diamonds exhibiting a "hearts and arrows" pattern in viewing devices generically referred to as hearts-and-arrows scopes. All of these diamonds are mass-produced and lack the sophistication, consistency and excellence of the EightStar® diamond. We were the first to create diamonds in this medium, the first to use diamond performance as a guidance system during cutting and evaluation and continue to be the world leaders in this genre.

Hearts and arrows viewers show the detail of a diamond's main facets and give no visual data regarding the other forty-one facets (forty-two if you count the culet). The FireScope® allows the observer to see how light strikes every single facet of the diamond instantly. The FireScope® is a true gemological instrument and a cutter's guidance system while the hearts and arrows viewers are toyish by comparison. Our cutters can cut an EightStar® diamond using a FireScope® but cannot with a hearts and arrows viewer or any other instrument in the world. Such is the extremely significant supremacy of the FireScope® in the realm of the genre of reflective image technology used in diamond polishing and merchandising.

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## **THE EVOLUTION OF A GEMOLOGIST**

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In 1996 we invited Mr. Peter Yantzer, director of the American Gem Society diamond-grading laboratory, to visit us and become acquainted with our diamonds and method of evaluation. It was the first time he had heard of the FireScope® or us. Yantzer was so

impressed after his two-day visit that he wrote these words:

"I am awed by the precision with which you can cut diamonds. I truly believe they are the most perfectly cut diamonds on the planet."

Mr. Yantzer was NOT speaking on behalf of the American Gem Society when he wrote these words. He came by himself to meet with us and, at that time, nobody else from his organization had seen our diamonds or the FireScope®. But Mr. Yantzer himself was clearly impressed far beyond the ordinary to have made such a superlative asseveration as he did.

The significance of Mr. Yantzer's visit and his response could be easily missed. Yantzer left EightStar's factory almost in a state of shock. He suddenly realized that all he had been taught to believe about diamond analysis was naive. It was not unlike a marksman from the 19<sup>th</sup> century, one accustomed to using a tiny sight on the front of the barrel of a rifle to target his prey, suddenly being teletransported to the 21<sup>st</sup> century and handed a rifle with a laser sight. Mr. Yantzer saw that he was in a position to enhance the quality of all diamonds, to create the conditions that could become a boon to all diamond consumers, by letting the world know that there was a better way to cut diamonds, a better way to analyze them, evaluate them, a superior way to perform quality analysis. He knew that he could take from us a message to all the diamond cutters of the world about the value of reflective image technology in diamond quality analysis.

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### **THE AMERICAN EVOLUTION OF EIGHTSTAR®**

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As a result of our research into diamond analysis, which has evolved far beyond where we began in 1990, we have created new technology which we feel will also affect the rest of the diamond cutting world. We have applied for patents on two instruments which will provide badly needed scientific and objective answers to performance questions which we feel cannot be answered by devices which depend on electronic analysis, digitization, or devices which need calibration of any kind. We have devised one tool for brilliance and scintillation analysis and a second one for the fanning of colors in a diamond through the dispersion of white light, the phenomenon known commonly as fire.

Our instruments map and chart the light path in every diamond analyzed. With our instrumentation we are able to track a diamond's performance facet-by-facet and create a scale based on a diamond's optical properties. We have concluded that there is a three part process that constitutes the beauty of any given diamond. That process is now referred to as a

diamond's "Performance Triangle" to use the words of the head of my Research and Development division, Mr. Michael Cowing. A diamond's beauty depends on three things:

4. The quality of the cut
5. The placement of the observer
6. The source of light for the diamond

Diamonds look radically different as these three things change. The diamond grading system of the future will take into account a diamond's performance triangle.

Our contribution, beginning with Mr. Tamura in Tokyo and continuing with von Sternberg, Gilbertson and Cowing in the United States, has been to introduce to the world the importance of a diamond's performance, the method of evaluation that takes into account three-dimensionality. In so doing we have evolved beyond

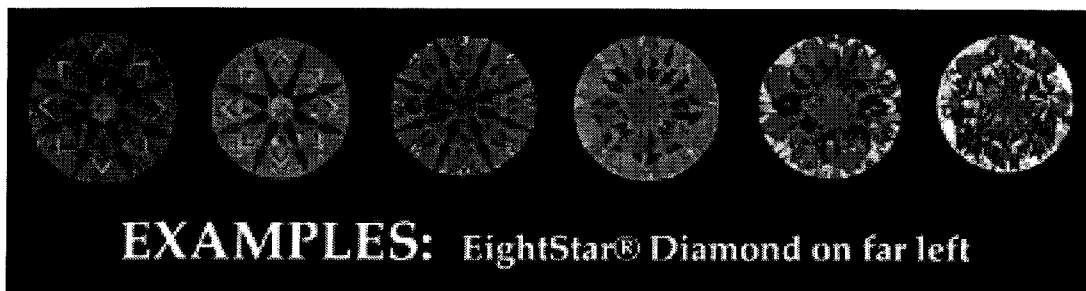
Tolkowsky's equally significant contribution to diamond analysis and cutting.

Dr. Ilene Reinitz of the research division of the Gemological Institute of America has stated it this way:

"The research performed by Tolkowsky is not adequate to fully understand the relationship among the different appearance attributes related to cut, which are brilliance, fire and scintillation. He looked at a TWO-dimensional model. Yet light bounces around in a diamond in a THREE-dimensional way"

These words of Dr. Reinitz appeared in print in 1998. Let us now revisit the words of Mr. Tamura that date back to 1984 to see how amazingly avant-garde his thinking was, how incredibly focused he became once he looked into the FireScope®

"The 'symmetry' grading on a diamond certificate takes into account only that -- the quality of the points of contact between the fifty-eight facets of the diamond. What is more important, which this method of evaluation





completely ignores, is overall three-dimensional symmetry. For years, cutting firms and gemological laboratories have taken this for granted, a case of not seeing the forest for the trees, if ever there was one."

What Tamura saw became the future of diamond cutting. When he taught my wife, Alison, to make diamonds this new way he inculcated into the Western world the stuff of change that has now spread from us to the heart of the diamond industry. Tamura spread the first seeds of change. We grew them here and planted them in Peter Yantzer. Over the years they grew until the American Gem Society has now come to embrace our method of analysis as the method of the future.

In December of 2001 the following press release was sent out by the American Gem Society and published in many trade publications. Here is how it was written in the Jewelers Circular Keystone:

**A JCK Exclusive: AGS and Eightstar sign research and development agreement**

-- 12/14/01

The American Gem Society (AGS) has finalized an agreement with Richard von Sternberg of Eightstar Diamond Company for exclusive use of technology and instrumentation for the AGS development of a cut grading system for fancy shaped diamonds.

"We strongly believe that a quantifiable cut grade for fancy shaped diamonds is now within reach," states Robert W. Bridel, AGS executive director and CEO. "Richard von Sternberg's knowledge of diamonds and Eightstar's technological advances will help AGS bring this project to a timely completion."

AGS will use data from the physical analysis of fancy shaped diamonds to construct a new performance-based cut grading system. The research will be conducted at the new AGS Laboratories facility on the AGS Campus in Las Vegas.

"We are very pleased to be able to contribute to this historical venture," says Richard von Sternberg, president of Eightstar. "We believe that a diamond's performance can be quantifiably graded no matter what the shape. This anticipated AGS grading system is a further example of the American Gem Society's dedication to protecting the consumer through the provision of complete information on all four C's."

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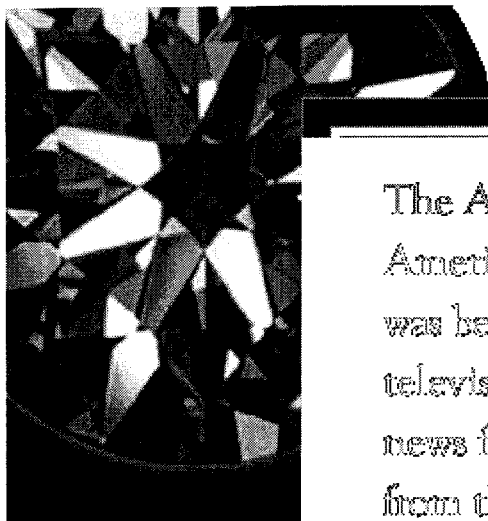
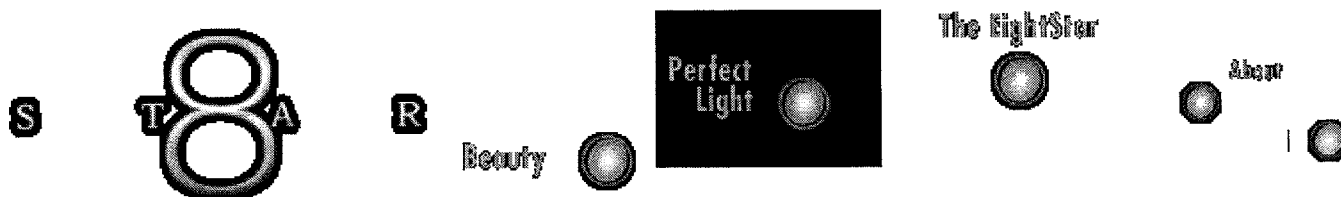
**THE EIGHTSTAR® WEB SITE**

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For more information about this subject, you are invited to investigate further at our website:

[www.eightstar.com](http://www.eightstar.com)

EXHIBIT H



The American Star Diamond is currently on it's American tour. While the American Star Diamond was being shown in San Diego, CA, the local television station, KUSI-TV prepared an exciting news feature which is accessible via the Internet from this webpage. This video is available courtesy of KUSI-TV.

FREQUENTLY  
ASKED  
QUESTIONS

TODAY'S  
REVOLUTION  
IN DIAMOND  
CUTTING

American Star  
Diamond  
1942 by EightStar



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The American Star Diamond Video

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EXHIBIT I



# Grimball JEWELERS

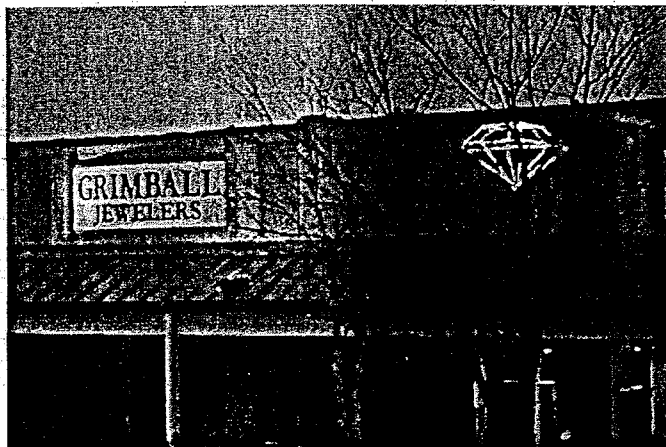
79 South Elliott Road  
Chapel Hill, NC 27514  
919-929-2580 / 800-928-2580

## Store Hours

Tuesday - Friday 10:00am to 6:00pm

Saturday 10:00am to 5:00pm

[grimball@bellsouth.net](mailto:grimball@bellsouth.net)



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**G Art Nouveau Jewelry**  
Gorgeous 18K & enamel made in Spain

**G One of a Kind Pieces**  
You won't find these anywhere else

**G Moissanite Jewelry**  
Incredible brilliance and durability at 1/10 the cost of diamond

**G EightStar Diamonds**  
The most perfectly cut diamonds in the world. Only 2000 are cut each year.

**G Our Newsletter**  
Quarterly updates

**G Gem Information**  
Definitions and explanations of treatments, synthetics, etc.

**G Lucere cut diamond**  
If you are thinking of a princess or emerald cut, you owe it to yourself to see the

**G Panorama**  
A panoramic view of our new store

**G About Us**  
Stories and pictures

Lucere.

**G Links**  
Links to informative sites about Grimball Jewelry

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EXHIBIT J



79 South Elliott Road  
Chapel Hill, NC 27514  
919-929-2580  
[grimball@bellsouth.net](mailto:grimball@bellsouth.net)

Designers in gold and platinum

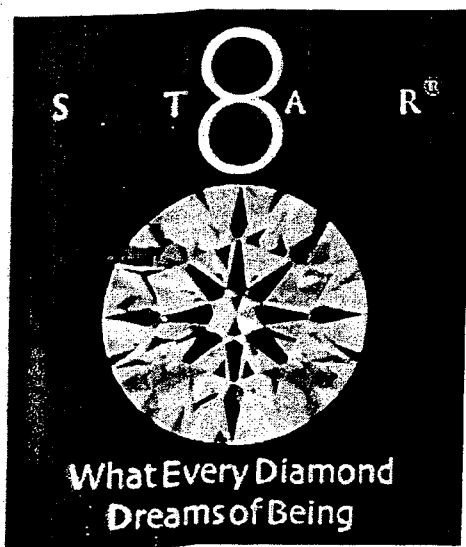
Repairs and Appraisals

Fine diamonds and colored gems

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## Links

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## EightStar Diamonds

The most perfectly cut diamonds in the world. Only 2000 are cut each year.

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